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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
JAMES MORALES,

4

PLAINTIFF,

5

-against-

Case No.:

6

16-cv-02134-ALC

7 KAVULICH & ASSOCIATES, P.C., GARY  
8 KAVULICH, ROSEWALL GARDENS ASSOCIATES, LP,  
9 F/K/A ROSEWALL GARDENS ASSOCIATES,  
ROSEWALL, INC.,

9

DEFENDANTS.

10 -----X

11

12 DATE: November 8, 2016

13 TIME: 3:15 P.M.

14

15 DEPOSITION of the Defendants,

16 ROSEWALL GARDENS ASSOCIATES, LP,

17 F/K/A ROSEWALL GARDENS ASSOCIATES,

18 ROSEWALL, INC., by a witness JONATHAN

19 DESSNER, taken by the Plaintiff, pursuant

20 to a Notice of Appearance and to the

21 Federal Rules of Civil Procedure, held at

22 the Law Office of Ahmad Keshavarz, 16 Court

23 Street, Brooklyn, New York 11241, before

24 Elizabeth Forero, a Notary Public of the

25 State of New York.

1

2 A P P E A R A N C E S:

3

4 LAW OFFICE OF AHMAD KESHAVARZ  
Attorneys for the Plaintiff  
5 JAMES MORALES  
16 Court Street  
6 Brooklyn, New York 11241  
BY: AHMAD KESHAVARZ, ESQ.  
7 -and-  
JESSICA MOODY, LAW CLERK

8

9

10 CAMBA LEGAL SERVICES, INC.  
Co-Counsel for Plaintiff  
JAMES MORALES  
11 885 Flatbush Avenue  
Brooklyn, New York 11226  
12 BY: MELISSA KOVEN, ESQ.

13

14 MITCHELL L. PASHKIN  
Attorneys for the Defendants  
15 KAVULICH & ASSOCIATES, P.C., GARY  
KAVULICH, ROSEWALL GARDENS ASSOCIATES,  
16 LP, F/K/A ROSEWALL GARDENS ASSOCIATES,  
ROSEWALL, INC.  
17 775 Park Avenue Suite 255  
Huntington, New York 11743  
18 BY: MITCHELL L. PASHKIN, ESQ.

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## 2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

24

\* \* \* \*

25

1 J. DESSNER

2 J O N A T H A N D E S S N E R, called as  
3 a witness, having been first duly sworn by  
4 a Notary Public of the State of New York,  
5 was examined and testified as follows:

6 EXAMINATION BY

7 MR. KESHAVARZ:

8 Q. Please state your name for the  
9 record.

10 A. Jonathan Dessner Rosewall.

11 Q. No middle name?

12 A. Adam.

13 Q. What is your address?

14 A. 141-50 85th Road, Briarwood,  
15 New York 11435.

16 Q. The address you gave a moment  
17 ago, is that your home address?

18 A. No.

19 Q. What is your home address?

20 A. I am not giving you my home  
21 address.

22 Q. Why not?

23 A. You have my business address.

24 I will not give you my home address.

25 MR. KESHAVARZ: Are you going

1 J. DESSNER

2 to accept service of a subpoena  
3 against him personally?

4 MR. PASHKIN: He is a  
5 representative of a party; you don't  
6 need to subpoena him. I am not  
7 accepting service.

8 MR. KESHAVARZ: Then provide  
9 his address.

10 A. I am not giving you my home  
11 address. You can subpoena me at my work  
12 address.

13 Q. Where do you work?

14 A. 141-50 85th Street, Briarwood,  
15 New York.

16 Q. Where do you work?

17 A. The name of the company, is  
18 that what you are asking me?

19 Q. Yes.

20 A. Metropolitan Property Services.

21 MR. KESHAVARZ: Mark it for a  
22 ruling about not providing his home  
23 address.

24 Q. What do you do at Metropolitan  
25 Property Services?

1 J. DESSNER

2 A. Vice-president of the  
3 Metropolitan Property Services.

4 Q. Was are your responsibilities?

5 A. I oversee the day-to-day  
6 operation.

7 Q. In what way?

8 A. You need to be more specific.

9 Q. In what way do you oversee the  
10 day-to-day operations?

11 A. I supervise the staff in  
12 running residential properties.

13 Q. In what way?

14 A. That's the way I do it.

15 Q. In what way do you supervise  
16 it?

17 MR. PASHKIN: Asked and  
18 answered.

19 Q. Go ahead. What do you mean  
20 "supervise?"

21 MR. PASHKIN: Asked and  
22 answered.

23 Q. You can object as to form and  
24 other objections, but unless you are  
25 instructed not to answer, you have to

1 J. DESSNER

2 answer the question.

3 A. I answered the question. I  
4 supervise them.

5 Q. In what way?

6 A. I oversee their job  
7 responsibilities.

8 Q. Who?

9 A. My staff.

10 Q. Let's go one at a time. How  
11 many staff?

12 MR. PASHKIN: Objection to  
13 relevancy. There is no relationship  
14 between at his staff and this  
15 lawsuit.

16 Q. How many staff? Are you going  
17 to answer the question?

18 A. No.

19 MR. KESHAVARZ: Mark it for a  
20 ruling.

21 A. Is this going to be an  
22 aggressive deposition? If it is, I don't  
23 need to be here because quite frankly I am  
24 not really comfortable with the way you are  
25 deposing me so far.

1 J. DESSNER

2 Q. I am asking you pretty straight  
3 forward questions.

4 A. It is the tone of your  
5 questions.

6 Q. Am I raising my voice?

7 A. You are being hostile.

8 Q. In what way?

9 A. You are being passively  
10 hostile.

11 Q. Am I raising my voice?

12 A. Let's move onto the next  
13 question.

14 Q. What does Metropolitan Property  
15 Services do?

16 A. It manages residential  
17 apartment buildings.

18 Q. Which residential apartment  
19 buildings?

20 A. 2300 Sedgwick Avenue.

21 Q. Any other apartment buildings?

22 A. I am not giving out those  
23 addresses.

24 Q. Are there any other apartment  
25 buildings?



1 J. DESSNER

2 MR. PASHKIN: Object to  
3 relevancy.

4 Q. My question is, are there any  
5 other apartment buildings other than 2300  
6 Sedgwick Avenue?

7 A. My answer is, I am not giving  
8 you any other addresses. That was my  
9 answer to your question.

10 MR. KESHAVARZ: Move to compel.

11 Q. I didn't ask for an address.  
12 What other properties does Metropolitan  
13 service?

14 MR. PASHKIN: Objection to  
15 relevancy.

16 MR. KESHAVARZ: Relevance is  
17 not an instruction not to answer the  
18 question. Are you going to instruct  
19 your client to answer?

20 MR. PASHKIN: Well, I will put  
21 on the record that he has an  
22 obligation to answer to the best of  
23 his ability. I cannot force him to  
24 answer.

25 MR. KESHAVARZ: You can

1 J. DESSNER

2 instruct him to answer.

3 MR. PASHKIN: Under the federal  
4 rules, it is an appropriate question  
5 subject the objection. Under the  
6 federal rules you do have to answer  
7 the question.

8 A. What is it you would like to  
9 know?

10 MR. KESHAVARZ: Read back the  
11 question.

12 (Whereupon, the referred-to  
13 question was read back by the  
14 Reporter.)

15 A. Yes.

16 Q. How many?

17 A. I am not answering that  
18 question.

19 Q. Why not?

20 A. I don't want to.

21 MR. KESHAVARZ: Will you  
22 instruct your client to answer the  
23 question?

24 MR. PASHKIN: I will instruct  
25 him under the federal rules he is

1 J. DESSNER

2 required to answer the questions  
3 subject to the objection that was  
4 made.

5 Q. What is your answer?

6 A. I will take a moment with my  
7 attorney and talk to him outside.

8 MR. PASHKIN: Let's go.

9 (Whereupon, a short recess was  
10 taken.)

11 Q. How many properties does  
12 Metropolitan Property Services manage?

13 MR. PASHKIN: Objection to  
14 relevance.

15 A. I will limit my question to one  
16 particular building, my answers rather to  
17 this one particular building.

18 Q. Why?

19 A. Because that is what I chose to  
20 do.

21 MR. KESHAVARZ: Are you going  
22 to instruct the witness to answer.

23 MR. PASHKIN: I have instructed  
24 my witness as to his obligations  
25 under federal rules. I have

1 J. DESSNER

2 instructed him the question has to be  
3 answered to subject to the objection.  
4 I cannot physically force him to  
5 answer the question.

6 MR. KESHAVARZ: Mark the issue  
7 for a ruling by the court.

8 Q. What is your relationship with  
9 Rosewall Gardens Associates, LLP?

10 A. Rosewell Garden Associates is  
11 the ownership of 2300 Sedgwick Avenue. We  
12 run the property.

13 Q. "We" being Metropolitan  
14 Property Services?

15 A. Yes.

16 Q. What is your relation to  
17 Rosewall, Inc.

18 A. I don't know who that is.

19 Q. Do you know if Rosewall, Inc.,  
20 is the general partner for Rosewall Gardens  
21 Partnership?

22 A. I do not know.

23 Q. Who is the owner of Rosewall  
24 Gardens Associates?

25 A. I believe the LLC.

1 J. DESSNER

2 MR. PASHKIN: Objection to  
3 relevancy.

4 Q. Well, it is listed as an LLP.  
5 Do you know who has an ownership interest  
6 in it?

7 A. I do not.

8 Q. Then why are you a corporate  
9 representative for Rosewall Gardens  
10 Associates, LLP if you don't know who owns  
11 it?

12 A. I am not a corporate  
13 representative. I work for the management  
14 company.

15 Q. Well, you are testifying here  
16 as a corporate representative of Rosewall  
17 Gardens Associates, LLP?

18 A. I am testifying as a  
19 representative of the management company  
20 who manages Rosewall Gardens Associates.

21 Q. So the answer to my question is  
22 "no?"

23 A. I think I just answered the  
24 question. I told you what it was, what my  
25 position was.

1 J. DESSNER

2 Q. Your position is what is it.  
3 For example, are the corporate  
4 representative testifying today on behalf  
5 of Rosewall Gardens Associates?

6 MR. PASHKIN: He is as it  
7 relates to this lawsuit.

8 Q. Is that your understanding?

9 A. That is my understanding.

10 Q. If it is okay, I will say  
11 "Rosewall" to mean "Rosewall Gardens  
12 Associates, LLP" and "Rosewall Gardens  
13 Associates;" is that okay?

14 MR. PASHKIN: I will object.  
15 They are not the same, so.

16 Q. So why did Rosewall issue a  
17 restraint against my client's TD bank  
18 account when Rosewall had no judgment  
19 against him?

20 A. I don't know.

21 Q. When you say you are the  
22 property management for Rosewall, what does  
23 that entail?

24 A. It entails taking care of the  
25 day-to-day responsibilities of running the

1 J. DESSNER

2 property.

3 Q. Such as?

4 A. Paying bills, collecting rent,  
5 doing repairs.

6 Q. Paying bills, collecting rent,  
7 doing repairs? Anything else?

8 A. I mean there are a multitude of  
9 things.

10 Q. What else?

11 A. Hiring staff, firing staff  
12 hiring outside vendors.

13 Q. What else?

14 A. That is pretty much about it.

15 Q. Now, was it Metropolitan  
16 Properties Service that retained Mr.  
17 Kavulich to collect a debt against Mr.  
18 Morales?

19 A. It was Rosewall Garden  
20 Associates that retained him.

21 Q. Metropolitan Property Services  
22 was acting as the agent of Rosewall; is  
23 that correct?

24 A. Yes.

25 Q. So all of the acts taken on

1 J. DESSNER

2 behalf of Rosewall were actually taken by  
3 someone at Metropolitan Property Services,  
4 is that correct?

5 A. Yes.

6 Q. Who at Metropolitan Property  
7 Services retained Mr. Kavulich?

8 A. That would be me.

9 Q. Anyone else?

10 A. No.

11 Q. Are you the person who is in  
12 charge of retaining attorneys to file  
13 lawsuits to collect rent on behalf of  
14 Metropolitan Property Services?

15 A. Yes.

16 Q. Also to retain attorneys for  
17 evictions?

18 A. Yes.

19 Q. How did you decide to retain  
20 Mr. Kavulich to attempt to collect rent  
21 from my client?

22 A. I don't recall.

23 Q. How many firms have you  
24 retained to collect debts?

25 MR. PASHKIN: Objection to



1 J. DESSNER

2 relevancy.

3 A. I don't recall.

4 Q. More than one?

5 MR. PASHKIN: Objection to  
6 relevancy.

7 A. Over the course of time?

8 Q. How many?

9 A. I don't recall.

10 Q. Currently how many attorneys?

11 MR. PASHKIN: Objection to  
12 relevancy.

13 A. Right now I have one.

14 Q. That is Mr. Kavulich?

15 A. No.

16 Q. Who is that?

17 A. Guttman & Mintz.

18 Q. Have you ceased doing business  
19 with Kavulich's firm?

20 A. I don't do business with him  
21 anymore, no.

22 Q. Is this because of this  
23 lawsuit?

24 A. No.

25 Q. Why is that?

1 J. DESSNER

2 MR. PASHKIN: Objection to  
3 relevance.

4 A. We chose to use another firm.  
5 I don't recall why.

6 Q. Is Mr. Kavulich's firm the firm  
7 you generally used to file lawsuits to  
8 collect rent and then you ceased using him;  
9 is that correct?

10 A. Yes.

11 Q. When did that occur?

12 A. I don't recall the date.

13 Q. Do you recall approximately  
14 when that was?

15 MR. PASHKIN: Objection to  
16 relevance.

17 A. It has been several years.

18 Q. Did you terminate Mr. Kavulich  
19 from representing the property owners  
20 through Metropolitan Property Services, did  
21 you terminate him before 2015?

22 A. I don't recall.

23 Q. You said several years ago?

24 A. I believe so.

25 Q. You believe it was before 2015?

1 J. DESSNER

2 A. I don't recall.

3 Q. Well, if he filed a lawsuit  
4 against my client in May, he filed an  
5 objection to my client's exemption claim  
6 form in May 2015, did he have authority to  
7 do that?

8 A. I don't know.

9 Q. Who would know?

10 A. Gary Kavulich would know.

11 Q. All the actions done for  
12 Rosewall are done by Metropolitan Property  
13 Services; right?

14 A. Yes.

15 Q. Is there a document that would  
16 reflect what date Metropolitan Property  
17 Services ceased using Mr. Kavulich to  
18 collect debts?

19 A. No.

20 Q. Was there a termination letter?

21 A. He was never terminated.

22 Q. What was he?

23 A. We just stopped giving him  
24 cases.

25 Q. But did you pull away the

1 J. DESSNER

2 existing cases he was on?

3 A. No.

4 Q. He still continues to represent  
5 properties managed by Metropolitan Property  
6 Services?

7 A. Whatever cases he was working  
8 on at the time he continued to work on.

9 Q. Does either Metropolitan  
10 Property Services or Rosewall have any  
11 insurance coverage?

12 A. For?

13 Q. For anything.

14 MR. PASHKIN: Objection to  
15 relevancy.

16 A. Yes.

17 Q. Did you submit a claim with an  
18 insurance company regarding allegations  
19 made in this lawsuit?

20 A. Yes.

21 Q. How many insurance companies  
22 did you submit the claim to?

23 A. One.

24 Q. What was the result?

25 A. They coverage was denied.

1 J. DESSNER

2 Q. Do you know why?

3 A. Because they didn't cover it  
4 under the policy.

5 Q. Did you appeal that decision?

6 A. No.

7 Q. Are you paying Mr. Kavulich out  
8 of pocket to defend you in this case?

9 MR. PASHKIN: Objection. No  
10 basis. Objection to relevance,  
11 privilege.

12 A. No.

13 Q. Do you know who is?

14 A. Who is what.

15 Q. Paying Mr. Kavulich to defend  
16 this lawsuit?

17 A. I don't know.

18 Q. Who would know?

19 A. I guess Mr. Kavulich would  
20 know.

21 Q. Do you know if anyone is paying  
22 Mr. Kavulich to represent the defendants in  
23 this lawsuit?

24 A. I don't know.

25 Q. Do you keep a ledger of the

1 J. DESSNER

2 amounts claimed to be owed by Mr. Morales?

3 A. Yes, there was a ledger.

4 Q. Have you provided that ledger  
5 to Mr. Kavulich?

6 A. Yes.

7 Q. Did you provide that ledger to  
8 Mr. Pashkin?

9 A. No.

10 Q. What documents did you provide  
11 Mr. Kavulich regarding Mr. Kavulich's  
12 attempts to collect a debt against Mr.  
13 Morales?

14 A. I don't recall. I believe it  
15 was a number of years ago. I am assuming  
16 the rent ledger, the lease and any  
17 additional charges Mr. Morales may have run  
18 up over the course of his tenancy.

19 Q. Anything else?

20 A. Any previous lawsuits such as  
21 landlord/tenant actions, I don't know off  
22 hand.

23 Q. There is a co-debtor that the  
24 judgment was rendered against Miss Clara  
25 Potter in the housing lawsuit by Rosewall,

1 J. DESSNER

2 do you know if that is the case?

3 A. I believe that is the case.

4 Q. You've received payments in  
5 collecting the judgement from Miss Potter;  
6 correct?

7 A. I don't know.

8 Q. If payments were received by  
9 Mr. Kavulich in an attempt to collect the  
10 judgment against Miss Potter, you would  
11 have a ledger that would credit those  
12 payments?

13 A. Most likely.

14 Q. So is it you that provides Mr.  
15 Kavulich with the accounting as to the  
16 amount owed or vice versa?

17 A. On the inception of the attempt  
18 to collect the debt?

19 Q. Both.

20 A. On the inception we would  
21 provide him with a balance that was  
22 outstanding.

23 Q. And subsequent to the filing of  
24 the lawsuit?

25 A. We would not provide him any

1 J. DESSNER

2 other information.

3 Q. Would he be provided with an  
4 accounting of the payments received after  
5 the filing of the lawsuit?

6 A. We would get checks he would  
7 collect.

8 Q. You would report those checks  
9 into some sort of system?

10 A. Yes.

11 Q. So you have a ledger reflecting  
12 the payments made on the judgement.

13 A. Most likely.

14 Q. Do you know whether or not they  
15 were produced in this case?

16 A. I don't know.

17 Q. Will you produce a copy to your  
18 attorney?

19 A. I will certainly discuss it  
20 with my attorney. If he wants to produce  
21 it, we'll produce it.

22 Q. What other documents do you  
23 have regarding Mr. Morales or Miss Potter  
24 after the date of the landlord-tenant  
25 action? Do you have any documents after



1 J. DESSNER

2 the date of the landlord-tenant action?

3 A. Not that I am aware of.

4 Q. Are you able to determine the  
5 total amount currently due on the judgment  
6 against Miss Potter?

7 A. I don't know at this moment.

8 Q. Are you able to determine that  
9 from your records?

10 A. I would have to look at the  
11 paperwork.

12 Q. You have the ability to  
13 determine that from your records?

14 A. I imagine.

15 Q. Do you know if Rosewall has  
16 made a demand for Kavulich to indemnify  
17 them in this case?

18 MR. PASHKIN: Objection to  
19 relevance.

20 A. I don't know.

21 Q. Who would make the demand for  
22 indemnification?

23 A. I don't know.

24 Q. There is no one else at  
25 Metropolitan Property Services that deals

1 J. DESSNER

2 with attorneys other than you; right?

3 A. Right.

4 Q. Would there be anyone else that  
5 would know other than you?

6 A. No.

7 Q. Did you demand Kavulich  
8 indemnify Rosewall?

9 A. There was no demand.

10 Q. Or Metropolitan Property  
11 Services?

12 A. No.

13 Q. Demand, request?

14 A. No.

15 Q. You haven't paid anything for  
16 costs in defending this lawsuit; correct?

17 A. No.

18 Q. Are you expecting to have to  
19 pay for any costs for defend this FDPCA  
20 lawsuit?

21 A. No.

22 Q. Why not?

23 A. I had a discussion with Mr.  
24 Kavulich and he said he would cover the  
25 costs.

1 J. DESSNER

2 Q. He agreed to do that?

3 A. Yes.

4 Q. As to if there is a judgment  
5 rendered against Rosewall, is Mr. Kavulich  
6 agreeing to pay that judgment on behalf of  
7 Rosewall?

8 MR. PASHKIN: Objection to  
9 relevancy.

10 A. Yes.

11 Q. Did you insist that Mr.  
12 Kavulich file an answer in this lawsuit?

13 MR. PASHKIN: Objection to  
14 relevancy.

15 A. Did I insist?

16 Q. Did you ask Mr. Kavulich an  
17 answer in this lawsuit?

18 A. Mr. Kavulich informed me that  
19 he was filing an answer.

20 Q. Did he do that at your  
21 insistence?

22 A. No, he did that on his own.

23 Q. Prior to no longer providing  
24 your cases to Mr. Kavulich, how many cases  
25 did Rosewall have Mr. Kavulich collecting

1 J. DESSNER

2 on?

3 MR. PASHKIN: Objection to  
4 relevancy.

5 A. I don't know.

6 Q. More than one?

7 A. Probably.

8 Q. More than two?

9 A. I don't know.

10 MR. PASHKIN: Objection to  
11 relevancy.

12 Q. You don't know if Mr. Kavulich  
13 represented Rosewall for more than two  
14 claims?

15 A. I don't know.

16 Q. Do you know if Mr. Kavulich  
17 represented Metropolitan Property Services  
18 for more than two lawsuits?

19 MR. PASHKIN: Objection to  
20 relevancy.

21 A. He did not.

22 Q. In the suits for rent Mr.  
23 Kavulich files on behalf of Rosewall, do  
24 you have to pay him an attorney's fee to  
25 bring that suit?

1 J. DESSNER

2 MR. PASHKIN: Objection to  
3 relevancy.

4 A. No.

5 Q. So any collection lawsuit filed  
6 by Mr. Kavulich on your behalf, you don't  
7 pay Mr. Kavulich any attorney's fees for  
8 either landlord-tenant or rent collection;  
9 is that true?

10 MR. PASHKIN: Objection to  
11 relevancy.

12 A. Mr. Kavulich does not represent  
13 us in landlord-tenant matter in collections  
14 matters only.

15 Q. In collection lawsuits filed by  
16 Mr. Kavulich on your behalf, is Mr.  
17 Kavulich paid for his attorney's fees for  
18 bringing that suit?

19 A. His fees are deducted from when  
20 he makes collection.

21 Q. As a percentage of the  
22 collection?

23 A. Yes.

24 Q. Do you recall what the  
25 percentage was?

1 J. DESSNER

2 MR. PASHKIN: Objection to  
3 relevancy.

4 A. I believe it is was one third.

5 Q. So, for example, he does not  
6 charge you five hundred dollars for filing  
7 a rent lawsuit?

8 A. No.

9 Q. Do you know why he puts in his  
10 collection lawsuits a demand for five  
11 hundred dollars in attorney's fees?

12 A. I do not.

13 Q. Has he ever discussed that with  
14 you?

15 A. No.

16 Q. If he is able to obtain payment  
17 for the additional five hundred dollars in  
18 attorney's fees, do you know if that is  
19 supposed to be divided with you or go  
20 entirely to him?

21 MR. PASHKIN: Objection to  
22 relevance.

23 A. I don't participate in any  
24 legal fees he collects or Rosewall does not  
25 participate in any legal fees he collects.

1 J. DESSNER

2 Q. But, for example, if you file  
3 suit and it says that the consumer owes a  
4 thousand dollars to Rosewall and he  
5 contends in the lawsuit is entitled to five  
6 hundred dollars in attorney's fees, and he  
7 collects fifteen hundred dollars, is he  
8 supposed to remit two third of the fifteen  
9 hundred dollars to you?

10 A. I believe he is only submitting  
11 two-thirds of our share of the rent.

12 Q. What made you decide to retain  
13 Mr. Kavulich to file rent collection  
14 lawsuits for you?

15 MR. PASHKIN: Objection to  
16 relevancy.

17 A. I don't recall.

18 Q. How, if at all, do you  
19 communicate with Mr. Kavulich during the  
20 course of rent collection lawsuits?

21 A. By phone.

22 Q. Any other manner?

23 A. No.

24 Q. Generally speaking, what is the  
25 type of things you would speak on the phone

1 J. DESSNER

2 with Mr. Kavulich regarding the collection  
3 lawsuits?

4 A. We didn't speak on the phone  
5 that often. He would come into the office.

6 Q. What would he communicate to  
7 you generally speaking regarding these  
8 suits that he files on your behalf to  
9 collect rent?

10 A. It wasn't all that much  
11 communication. It was giving him people  
12 who we thought had outstanding arrears.  
13 And discussing different documents he  
14 needed to have to pursue those lawsuits.

15 Q. Do you make any representations  
16 to Mr. Kavulich about the accuracy as to  
17 the amounts claimed to be due?

18 A. No.

19 Q. Do you make any representations  
20 to Mr. Kavulich about whether there is a  
21 valid judgment existing somewhere?

22 A. No.

23 Q. Is Mr. Kavulich supposed to  
24 make those determinations independently of  
25 what you tell him?



1 J. DESSNER

2 A. Yes.

3 Q. Does he do that?

4 A. I don't know. I am assuming he  
5 does.

6 Q. Do you have any reason to think  
7 he has not?

8 A. No.

9 Q. How often does Mr. Kavulich  
10 forward monies that he collects on your  
11 behalf?

12 A. It was probably on a monthly to  
13 six-week basis.

14 Q. Does he cut a single check?

15 MR. PASHKIN: Objection to  
16 relevancy.

17 A. No.

18 Q. How is the money transferred?

19 MR. PASHKIN: Objection to  
20 relevancy.

21 A. I think it was a check per  
22 case.

23 Q. Does he physically write a  
24 check or electronic check?

25 MR. PASHKIN: Objection to

1 J. DESSNER

2 relevancy.

3 A. I don't recall.

4 Q. Is there any electronic  
5 interface between Mr. Kavulich's office and  
6 you?

7 A. No.

8 Q. Do you communicate by email?

9 A. No.

10 Q. Have you communicated by email  
11 to Mr. Kavulich regarding Mr. Morales?

12 A. No.

13 Q. Do you transfer a spreadsheet  
14 to Mr. Kavulich as a ledger in terms of  
15 determining balances due?

16 A. What do you mean "transfer?"

17 Q. When you give him a ledger, do  
18 you mean a physical piece paper or an  
19 electronic file like a spreadsheet?

20 A. There is no electronic file.  
21 It would have been a physical piece of  
22 paper.

23 Q. What do you use to generate  
24 that ledger? Is it a program?

25 A. It would be the tenant's rent

1 J. DESSNER

2 ledger account.

3 Q. Was there a program you used to  
4 generate that?

5 A. There was at the time. I mean  
6 it is part of the rent management program.

7 Q. What rent management program?

8 A. It was called Micro Management.

9 Q. Was that used during the time  
10 of the rent collection lawsuit filed  
11 against Mr. Morales?

12 MR. PASHKIN: Objection to  
13 relevancy.

14 A. He would have been given a  
15 ledger printed out of our computer system.

16 Q. When did use the Micro  
17 Management software system?

18 A. For this case?

19 Q. I am trying to figure out how  
20 you generate a ledger?

21 A. Yes.

22 Q. You said you used Micro  
23 Management software to generate the ledger?

24 A. It was part of our everyday  
25 rent management program.

1 J. DESSNER

2 Q. The name of that rent  
3 management program was Micro Management?

4 A. Yes.

5 Q. How long have you used Micro  
6 Management?

7 MR. PASHKIN: Objection to  
8 relevancy.

9 A. For several years.

10 Q. Do you ever communicate with  
11 the marshal regarding judgements that  
12 Kavulich is attempting to collect on your  
13 behalf?

14 A. No.

15 Q. Do you ever deal with banks  
16 having accounts restrained for debts that  
17 Mr. Kavulich is attempting to collect on  
18 your behalf?

19 A. No.

20 Q. Has there ever been any claim  
21 that Mr. Kavulich was attempting to collect  
22 on a judgment that did not in fact exist?

23 A. No.

24 Q. To your knowledge, have any of  
25 the law firms you have used been accused of

1 J. DESSNER

2 executing on a non-existing judgment?

3 MR. PASHKIN: Objection to  
4 relevancy.

5 A. Not for me.

6 Q. Or collect on a non-existent  
7 judgement?

8 A. Not on me behalf.

9 Q. Do you know if that has  
10 happened an someone else's behalf?

11 MR. PASHKIN: Objection to  
12 relevancy.

13 A. I do not.

14 Q. To your knowledge, has anyone  
15 ever contended that an account that  
16 Kavulich was collecting on behalf of was  
17 being collected in a manner that violated  
18 the law?

19 MR. PASHKIN: Objection to  
20 relevance.

21 A. No.

22 Q. If a consumer contacts you  
23 regarding a debt Mr. Kavulich is attempting  
24 to collect on your behalf, is it common for  
25 you to communicate with that consumer or

1 J. DESSNER

2 forward that consumer to Mr. Kavulich's  
3 office?

4 MR. PASHKIN: Objection to  
5 relevance.

6 A. I don't recall having anybody  
7 contact me on a debt Mr. Kavulich was  
8 trying to collect.

9 Q. Other than Mr. Pashkin, who  
10 have you spoken with regarding this  
11 lawsuit?

12 A. Just our insurance carrier.

13 Q. Do you have any written  
14 communications with the insurance carrier?

15 A. I don't know.

16 Q. Well, did you send or have  
17 someone send on your behalf to the  
18 insurance carrier a written demand for  
19 coverage?

20 MR. PASHKIN: Objection to  
21 relevance. Asked and answered.

22 A. I don't know.

23 Q. But you know a claim was  
24 submitted with the insurance company that  
25 was denied?

1 J. DESSNER

2 A. Yes.

3 Q. You are saying you don't know  
4 if that claim was submitted in writing?

5 A. I don't know.

6 Q. You don't know if the rejection  
7 was submitted in writing?

8 MR. PASHKIN: Objection to  
9 relevance.

10 A. The rejection was submitted in  
11 writing to us.

12 Q. That is one document. Do you  
13 have possession of that document?

14 A. Not with me.

15 Q. Did you provide a copy of that  
16 document to your attorney?

17 A. No.

18 Q. Why not?

19 A. I haven't.

20 Q. Has your attorney requested you  
21 provide any documents in relation to this  
22 lawsuit?

23 A. No.

24 Q. Do you know why that is?

25 A. I don't know.

1 J. DESSNER

2 MR. KESHAVARZ: Mark this as  
3 Plaintiff's 1.

4 (Whereupon, the aforementioned  
5 Answer was marked as Plaintiff's  
6 Exhibit 1 for identification as of  
7 this date by the Reporter.)

8 Q. I am going to show you what has  
9 been marked as Plaintiff's 1. It is the  
10 "Answer" your attorney filed on your behalf  
11 in this lawsuit. I am going to ask you a  
12 series of questions that you may or may not  
13 be able to answer.

14 A. Okay.

15 Q. Have you had a chance to review  
16 this Exhibit 1?

17 A. Yes.

18 Q. If you scroll down to page  
19 eight where it says "Second Affirmative  
20 Defense," you may or may not be able to  
21 answer these questions, I am just asking.  
22 What is Rosewall's basis that the second  
23 affirmative defense that the instant action  
24 is barred by the expiration of the  
25 applicable statute of the limitations?



1 J. DESSNER

2 A. What?

3 Q. Do you know what the basis for  
4 Rosewall's second affirmative defense  
5 listed on page eight?

6 A. No.

7 Q. Do you know what the basis of  
8 Rosewall's third affirmative defense is?

9 A. No. I mean you are asking me  
10 questions without giving me backup to read.

11 Q. I understand that. You have  
12 been designated as the corporate  
13 representative of Rosewall for the claims  
14 and defenses of this suit. Now you may not  
15 know what the answer is, but I have to go  
16 down this checklist. If the answer is "I  
17 don't know," that's fine. But I have to go  
18 through this checklist of the affirmative  
19 defenses. Do you know what the basis of  
20 the fourth affirmative defense is?

21 A. No.

22 Q. Do you what the basis of any of  
23 the affirmative defenses are?

24 A. No.

25 Q. Does Mr. Kavulich communicate

1 J. DESSNER

2 with you about any of the cases that he's  
3 handling for Metropolitan Property Services  
4 in anyway other than to give you checks?

5 A. No.

6 Q. He does not tell what the  
7 status of the cases are?

8 A. No.

9 Q. He does not tell you whether  
10 there is a judgement entered or not?

11 A. No.

12 Q. He does not tell if there is a  
13 complaint against him for the collection he  
14 is doing on behalf of you?

15 A. No.

16 Q. Is there a requirement for Mr.  
17 Kavulich to inform Metropolitan Property  
18 Services of any complaints against him by  
19 consumers whom he is attempting to collect  
20 against?

21 A. What do you mean a  
22 "requirement?" On whose behalf?

23 Q. Does Metropolitan require  
24 Kavulich to inform Metropolitan of  
25 complaints that are made against Kavulich

1 J. DESSNER

2 about alleged misconduct by Kavulich in an  
3 attempt to collect debt for Metropolitan?

4 A. We do not have a specific  
5 requirement. I would imagine if there was  
6 a complaint against him, he would be  
7 obligated to tell us.

8 Q. But you don't know of any  
9 contract or legal obligation?

10 A. No.

11 Q. Just to be clear so for all of  
12 the rent collection cases that Kavulich  
13 does for Metropolitan, those are all on a  
14 percentage basis?

15 MR. PASHKIN: Objection to  
16 relevancy.

17 A. Yes.

18 Q. They are all a third?

19 MR. PASHKIN: Objection to  
20 relevancy.

21 A. I believe so.

22 Q. Do you know that the allegation  
23 in this suit that Kavulich was collecting  
24 on judgement, an alleged judgment against  
25 Mr. Morales when there was no judgement in

1 J. DESSNER

2 place; is that your understanding?

3 A. Yes.

4 Q. Does Metropolitan require  
5 Kavulich to take any steps or have a  
6 mechanism in place to avoid violating laws  
7 when they collect rent on your behalf?

8 A. No.

9 Q. You don't do any audits for  
10 example of his firm?

11 A. No.

12 Q. You don't require him to  
13 produce copies of lawsuits that are filed  
14 against him for debts that he collects on  
15 behalf of Metropolitan?

16 A. No.

17 Q. Do you know the first time you  
18 became aware of fact there was no judgment  
19 against Mr. Morales?

20 A. I believe when this lawsuit  
21 transpired.

22 Q. Did you forward the account to  
23 Kavulich to collect against Mr. Morales?  
24 Did you forward Kavulich a judgment  
25 account?

1 J. DESSNER

2 A. I didn't forward anything to  
3 Mr. Kavulich.

4 Q. Mr. Kavulich was not an  
5 attorney in landlord/tenant cases?

6 A. That is correct.

7 Q. That was Gutman Mintz?

8 A. I don't know.

9 Q. There was a judgment entered  
10 against the co-debtor in the housing case  
11 but not against Mr. Moraler, correct?

12 A. I don't know offhand.

13 Q. You forwarded Mr. Morales'  
14 account to Kavulich to collect, correct?

15 A. Yes, I think we talked about  
16 Mr. Kavulich coming to the office and we  
17 would give him people that owes us money.  
18 Is that what you mean?

19 Q. You provided Mr. Kavulich the  
20 account for Mr. Morales to collect on,  
21 correct?

22 A. We provided him with rent  
23 figures. Mr. Kavulich started a collection  
24 action against Mr. Morales.

25 Q. Did you represent to Mr.

1 J. DESSNER

2 Kavulich that there was a judgement against  
3 Mr. Morales?

4 A. No.

5 Q. Did Gutman Mintz communicate  
6 directly with Kavulich regarding the  
7 lawsuit against Mr. Morales?

8 A. I don't know.

9 Q. Is that typically the case when  
10 you have a landlord/tenant law firm and a  
11 different law firm that is supposed to  
12 collect on a judgment from that  
13 landlord/tenant case, is it typical that  
14 the file goes from the prior attorney to  
15 the new attorney or does it go back to  
16 Metropolitan to give to the new attorney?

17 MR. PASHKIN: Objection to  
18 relevance and beyond the witness's  
19 knowledge what attorneys former and  
20 present do in general.

21 Q. Can you answer if you know?

22 A. I don't know.

23 Q. Other than the ledger, what  
24 documents did you provide Mr. Kavulich  
25 regarding the debt he was attempting to

1 J. DESSNER

2 collect against Mr. Morales?

3 A. I don't know specifically. It  
4 was probably his lease agreement. If there  
5 was previously any landlord/tenant actions,  
6 copies of those stipulations and any  
7 personal information we might have had like  
8 a tenant application.

9 Q. Anything else?

10 A. No.

11 Q. So you didn't rely on Gutman  
12 Mintz to provide that information to Mr.  
13 Kavulich, regarding Mr. Morales; is that  
14 right?

15 A. What information exactly?

16 Q. Any information? I am trying  
17 to figure out does the file go from Gutman  
18 Mintz directly to Kavulich regarding Mr.  
19 Morales or does it go back from Gutman  
20 Mintz to Metropolitan?

21 A. Gutman Mintz does not have a  
22 file. What file?

23 Q. The landlord/tenant action  
24 against Mr. Morales and the co-debtor?

25 A. We usually have a copy of the

1 J. DESSNER

2 court stipulation. I don't know what he  
3 does with the index number if it goes back  
4 to the prior attorney or not. I don't  
5 know.

6 Q. Do you know if Gutman Mintz  
7 forward the file to Kavulich?

8 A. I don't know.

9 Q. Do you have possession of the  
10 full landlord/tenant file for Mr. Morales?

11 MR. PASHKIN: Objection to  
12 form.

13 A. I am not quite sure what you  
14 mean by "full landlord/tenant file."

15 Q. Do you have all the documents  
16 filed in court in the landlord/tenant  
17 action against Mr. Morales? Do you have  
18 possession of all those documents?

19 A. We get copies of court  
20 stipulations in landlord/tenant cases. So  
21 during the course of the tenant's tenancy  
22 in an apartment, we know when to collect  
23 and when to do repairs, things like that.  
24 That is all the information I get from  
25 them.



1 J. DESSNER

2 Q. Just stipulations not the  
3 underlying lawsuit or motions?

4 A. Usually no.

5 Q. In this case Mr. Kavulich, I  
6 believe, produced a number, it says what it  
7 says, you would not have produced to Mr.  
8 Kavulich any of the court papers other than  
9 any stipulation, correct?

10 A. That's correct.

11 MR. KESHAVARZ: Mark this  
12 please as Plaintiff's 2 for  
13 identification.

14 (Whereupon, the aforementioned  
15 debt recovery sheet was marked as  
16 Plaintiff's Exhibit 2 for  
17 identification as of this date by the  
18 Reporter.)

19 Q. I am showing you what has been  
20 marked as Plaintiff's 2. Do you know what  
21 that document is, sir?

22 A. It looks like a debt recovery  
23 sheet from Kavulich & Associates.

24 Q. Have you seen that type of  
25 document before?

1 J. DESSNER

2 A. No.

3 Q. What you called the payment  
4 ledger, that you provide Mr. Kavulich is  
5 that reflected anywhere on Exhibit 2?

6 A. No.

7 MR. KESHAVARZ: I will pass the  
8 witness to his attorney.

9 MR. PASHKIN: I have nothing.

10 MR. KESHAVARZ: Are we going to  
11 come to an agreement as to Mr.  
12 Kavulich's deposition in the Morales  
13 case?

14 MR. PASHKIN: It is sometime  
15 next week, you know.

16 MR. KESHAVARZ: You are not  
17 going to produce him on Thursday?

18 MR. PASHKIN: I can't. He  
19 can't come. I am not trying to be  
20 difficult.

21 MR. KESHAVARZ: What is good  
22 for you? I only care about  
23 calendaring.

24 MR. PASHKIN: Do you want to do  
25 the 14th so we can continue to try to

1 J. DESSNER

2 get as much done as soon as possible?

3 MR. KESHAVARZ: What time?

4 MR. PASHKIN: He said between  
5 9:30 and 2:00. Obviously if we can  
6 start at 9:30 just in the context of  
7 trying to get, you know, as much in  
8 as possible.

9 MR. KESHAVARZ: Do we have an  
10 agreement to take his deposition at  
11 9:30 on the 17th?

12 MR. PASHKIN: Yes. Fine.

13 MR. KESHAVARZ: We have an  
14 agreement. Mr. Kavulich's deposition  
15 in the Morales case will take place  
16 on the 17th at 9:30 in my office.  
17 His availability is between 9:30 and  
18 2:00.

19 MR. PASHKIN: He has a child  
20 care issue.

21 MR. KESHAVARZ: As to the  
22 deposition of the landlord in Prage,  
23 can we take the landlord after the  
24 deposition of Mr. Kavulich on 17th?

25 MR. PASHKIN: I don't know. I

1 J. DESSNER

2 would have to speak to Mr. Dessner  
3 and set it for Thursday at 1:00. I  
4 will reach out to him.

5 Right now Mr. Wasser is set up  
6 for Thursday at one. So I mean like  
7 he was canceled once. I will ask  
8 him. You know, I do will do my best  
9 to get him here at 2:30 or 3:00, just  
10 because Mr. Kavulich is going to go  
11 until two o'clock on Morales.

12 MR. KESHAVARZ: Okay let's say  
13 2:45. Okay. Thank you.

14 (Whereupon, at 4:45 P.M., the  
15 Examination of this witness was  
16 concluded.)

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J. DESSNER

D E C L A R A T I O N

I hereby certify that having been  
first duly sworn to testify to the truth, I  
gave the above testimony.

I FURTHER CERTIFY that the foregoing  
transcript is a true and correct transcript  
of the testimony given by me at the time  
and place specified hereinbefore.

---

JONATHAN DESSNER

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

NOTARY PUBLIC

1 J. DESSNER

2 E X H I B I T S

3

4 PLAINTIFF'S EXHIBITS:

5

6 EXHIBIT EXHIBIT PAGE

7 NUMBER DESCRIPTION

8 1 Answer 40

9 2 Debt recovery sheet 49

10

11 (Exhibits retained by Counsel.)

12

13 I N D E X

14

15 EXAMINATION BY PAGE

16 MR. KESHAVARZ 4

17

18 QUESTIONS MARKED FOR RULINGS

19 PAGE LINE QUESTION

20 4 19 What is your home address?

21 7 16 How many staff? Are you going to  
22 answer the question?

23 11 11 How many properties does

24 Metropolitan Property Services manage?

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J. DESSNER

C E R T I F I C A T E

STATE OF NEW YORK            )  
  :   SS.:  
COUNTY OF KINGS            )

I, ELIZABETH FORERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the witness whose examination is  
hereinbefore set forth was duly sworn and  
that such examination is a true record of  
the testimony given by that witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or by marriage and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 17th day of November,  
2016.



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ELIZABETH FORERO

## J. DESSNER

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